(c) by when these facilities will be made available to those rural and adivasi areas where these facilities have not been extended in the State?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS (SHRI TAPAN SIKDAR): (a) to (c) No Sir. Out of 42060 villages in Maharashtra State, 31005 villages have been provided with VPTs. 45 VPTs have been provided with STD/ ISD facilities. Out of 2882 exchanges operating in Rural areas including Adivasi areas, 1456 exchanges are having STD/ISD facilities. Government plans to provide STD/ISD in the remaining exchanges by the year 2001.

Losses due to Telecom Bailout Package

475. SHRIMATI JAYAPRADA NAHATA:
SHRI AMAR SINGH:

Will the Minister of COMMUNICATIONS be pleased to state:

(a) the details of comments offered by CAG on telecom bailout package; and

(b) how much loss Government have suffered as a result of the package?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS (SHRI TAPAN SIKDAR): (a) A Draft Audit Para titled "package of concessions to existing Cellular and Basic Telephone Service Operators" was received from Director General of Audit, Post and Telecommunications. Salient aspects of Audit observations on the Package offered to existing Basic and Cellular Mobile Telephone Service Licensees for migration to New Telecom Policy-1999 (NTP-1999) regime are enclosed as Statement-I (*See* below).

(b) Any loss of revenue would have to be seen in a complete context. Government's view in the matter indicating the problems of the existing licensees under old policy framework, the new policy frame work of New Telecom Policy-1999 (NTP-99),

Government decision on migration policy and benefits of the migration policy is given in Statement-II and Statement-III.

Statement-I

The salient aspects of observations made by Director General of Audit, Posts and Telecommunications, in the Draft Audit Para on "package of concessions to existing Cellular and Basic Telephone Service Operators".

(i) Department of Telecommunications (DoT) has shown laxity in enforcing the license conditions for recovery of dues against the licensees who failed to honour their contractual obligations for payment of license fee and securitisation by Bank Guarantees (BGs).

(ii) DoT failed to ensure opening of the Escrow Bank Accounts, which would have been an effective mechanism to recover the outstanding dues from licensees.

(iii) The migration package relied on the fact that the market projections have gone wrong. This is not correct as in Metros the cellular subscribers are higher than the projected figures.

(iv) No detailed study was conducted from Basic Services. Grant of concessions and offer of migration to Basic Service Licensees is unjustified and pre-mature.

(v) Grant of six months extension in effective date to all existing licensees of Basic and Cellular Services in Telecom Circles was without individual examination of cases on merit. This would result in waiver of outstanding of license fee of Rs. 1153 crores and consequent loss of revenue to the Government.

(vi) DoT did not charge the one time entry fee from the existing licensees for migration to New Telecom Policy-1999 (NTP-99). This would result in a huge revenue loss to the Government, difficult to be assessed at this stage in absence of Telecom Regulatory Authority of India (TRAI) guidelines.

(vii) Cellular licensees did not pay WPC (Wireless Planning and Coordination Wing) Charges amounting to Rs. 162 crores as on

31.5.1999. No separate WPC license was signed with cellular licensees.

(viii) Government issued the offer of migration in a hurried manner and is fraught with the serious risk of frauds etc.

(ix) Extension in the license period by 5—10 years has been granted without linking such extension with their performance. Thus, losing opportunity of not granting extension to defaulting licensees for not discharging their contractual obligations or failing to provide service/coverage as required.

(x) The migration package was offered on the basis of the advice of Attorney General (AG) that continuanace of these licensees under the existing regime though legally possible, will create serious financial and economic problems for the licensees and the banking sectors. No such apprehensions were expressed by expert Group on Telecommunications (GoT). The financial advice regarding probable effect on the contracted parties is not within the scope of legal advice and therefore, any decision taken on this basis is not sound unless supported by advice of expert financial body.

Statement-II

Any loss of revenue would have to be seen in a complete context. A brief background of the licensing scheme is as below:

(i) In consideration of totality of circumstances, the Government took a decision to allow migration of existing licensees of Basic and Cellular Services to NTP-99 regime of revenue sharing from a prospective date of 1.8.1999. The licence fee dues upto the cut-off date of 31.7.1999 as per the existing license agreement and after marking adjustments towards notional extension of effective date in terms of migration package, were payable by the licensees.

(ii) There is no reduction as such in the amount of arrears in terms of the package offered to existing licensees for migration to NTP-99 regime of revenue sharing. The rate of interest and its penal nature remain intact. The only relief provided is by way of across the board extension of effective date by six months (subject to the condition

that any extension granted earlier was accounted for) in consideration of the delays in granting clearances etc. which led to a spate of litigation. It involved a reduction of Rs. 1443.58 crores in receipt of licence fee on this count. It may be highlighted that this relief of extension of effective date has not been granted to the Metro Cellular Operators because they were placed in a comparatively favourable position.

Justification of Migration Policy:

* Existing licensees under the 1994 Policy enjoy the right to operate their licenses under duopoly arrangement [with DoT/ MTNL (Mahanagar Telephone Nigam Limited) as the third operator in Cellular Services]. Upon their migration to NTP-99 regime on acceptance of the conditions of migration as a package, these existing licensees will forego the duopoly arrangement and will have to operate under the multipoly arrangement as provided in the NTP-99.
* It is open to the Government to change the policy, if it is considered that such a policy would be conducive to the revival of the telecom Industry and the interests of the general public will be better served by providing services to a large segment of the population at affordable rates.
* The changes in the Information and Communication Technology have been so fast and swift that the events have over taken the policy objectives and framework of the 1994 Telecom Policy.
* With the services being made more affordable, the consumer base is bound to substantially increase and the license regime which involves sharing of revenue would yield substantial sums to the Government as revenue share. Needless to mention that an independent body, viz., TRAI would regulate the rental chargeable from the consumers, thus taking care of consumer interest.
* There were enormous amount of litigation between the Licensees and the Licensor before the TRAI, and before the

High Court. Claims were also initiated by way of arbitration. It would not contribute to public interest to perpetuate such litigious regime. The Government has taken into account this aspect as well as other facts referred to here-in-above and envolved the package in larger public interest.

Other details giving an overview of the problems of the existing licensees under old policy framework, the new policy framework of NTP-99, Government decision on migration policy and benefits of the migration policy are enclosed as Annexure-III.

Statement-III

(i) Background—Problems of existing licensees under old policy framework:

Though the selection of Licensees was through open bids, the design of the license fee structure has not proved conducive to growth of services in subsequent years.

High bids particularly for the Cellular Circles and Basic Services were made in the hope of large growth of business which has not come true.

Service providers as well as their Associations had been requesting for several reliefs like moratorium on licence fee payment, extension of the period of license, extension of effective date etc. on the grounds of their alleged precarious financial condition. Delays in clearance by various authorities, governmental bodies and agencies were also cited as reasons for seeking reliefs.

Defaults were committed by the licensees in the due payment of license fee. Payments were not coming through and arrears were mounting. Efforts to encash the bank guarantees were stayed by the Courts/Telecom Regulatory Authority of India (TRAI) as a result of large number of legal proceedings initiated by licensees.

The licensing framework of the 1994 Telecom Policy did not achieve its objectives. Large capital resources were invested by the private licensees in the telecom sector and their non-viability was

affecting the domestic and foreign financial institutions funding the projects. This in turn was affecting the viability of the telecom service industry itself.

(ii) The New Policy frame work of New Telecom Policy-1999 (NTP—1999):

Government therefore constituted a high level 'Group on Telecom' (GoT) to recommend New Telecom Policy and also to consider problems of existing licensees under the new policy framework. The NTP-99 recommended by the GoT was approved by the Government effective from 1.4.1999.

The NTP-99 has been widely accepted as an improvement upon the previous policy and is seen as a step in the right direction meeting the imperatives of technological developments, market growth and national interest. Shift from payment of fixed license fees to revenue sharing in the multipoly situation which was recommended by GoT has been accepted by the Government. The objective of the NTP-99 is to activate investments and competition in the telecom sector; its thrust is to create a modern and efficient telecommunications infrastructure taking into account the convergence of Information Technology (IT), media, telecom and consumer electronics and thereby propel India into becoming an IT superpower. In that context requiring the existing license holders to function and continue under the 1994 Policy concurrently with NTP-99, without extending to them the migration to NTP-1999 would have led to serious anomalies. This would be impracticable in a market economy structure in a multipoly competitive license regime.

NTP-99 also announced the Government's intention to satisfactorily resolve the problems being faced by the existing operators in a manner which is consistent with the contractual obligations and is legally tenable.

(iii) Government decision on Migration Policy:

While approving the New Telecom Policy, it was noted, *inter-alia*, that it is in the public interest for the New Telecom Policy to be uniformly applicable all over the country; the Government

accordingly decided that the advice of the Attorney General be obtained, *inter-alia,* on the issue as to whether it is legally possible to bring the existing licensees under the New Telecom Policy regime and if so, the appropriate modalities therefor.

After taking into consideration all relevant material and submissions made before GoT, *inter-alia*, by Financial Institutions (FIs), representations received from operators; Government arrived at a considered decision that having regard to the ground realities and the prevailing situation facing the telecom industry, migration of licensees from the 1994 Telecom Policy to NTP-99 regime was warranted and integration of existing licensees into NTP-99 not retrospectively but prospectively, would be in over all public interest.

On consideration of the legal opinion given by the Attorney General and views of FIs and consideration of all relevant facts including possible implications, the Government decided (July 6, 1999) in favour of the migration package which combines the twin benefits of having a uniform licensing poicy in the whole country as also resolving the problems of the existing licensees in a manner which is legally sound.

(iv) Benefits of Migration Policy:

Strict enforcement of the license conditions would have in many cases lead to serious financial losses, if not bankruptcy. Many large Indian companies already in the field, would have shut down operations and there would have been disruption of this vital segment of the communication services. Government took the view that this would not be conducive to public interest. Any termination of the licenses would have had an immediate dampening effect on the banks and financial institutions, both national and international and could well result in lack of lenders and investors confidence in the Indian Telecom Sector. Banks which had furnished Bank Guarantees may not be able to recover the guaranteed sums from the guarantors, *viz.;* the operators. This would also have an adverse impact on the financial health of the banking institutions.

In the emerging scenario, telecom tariffs (to be determined by

TRAI) are going to be progressively reduced. On this account, no problems are likely to be faced under the licensing fee structure of NTP-99 which provides for payment of licence fee in the form of revenue share (as against the earlier fixed licence fee structure).

The downward tariff trends, would also benefit the consumer, push demand for telephones in the rural areas and thus effectively serve the objective of improving tele-density and rural penetration under NTP-99 regime.

Termination of licenses, and invocation of Bank Guarantees would lead to immediate and long drawn out litigation by current licensees. On the other hand, the new revenue sharing regime in NTP-99 would enhance competition by bringing in multiple operators, giving them flexibility to adjust in future to fast changing technologies and tariff changes, lead to induction of more number of players in the field and offer lower tariffs and better quality of service to the consumer. Once the growth of the sector is ensured, the revenue streams will also be more healthy and the Government will be in a better position to realize revenues due to it. Public interest would, therefore, be better served if the existing licensees were allowed to migrate to the New Telecom Policy-1999 regime.

The uniform application of NTP-99 all over the country would ensure growth of telecom sector which is a vehicle for information technology and will fulfil the vision of India to be an IT superpower.

Financial Autonomy to TRAI

476. DR. ALLADI P. RAJKUMAR: Will the Minister of COMMUNICATIONS be pleased to state:

(a) whether the Telecom Regulatory Authority of India (TRAI) has sought financial autonomy;

(b) if so, the reasons given by them; and

(c) the reaction of Government thereto?

THE MINISTER OF STATE IN THE MINISTRY OF